

CITY COUNCIL PROCEEDINGS

Tuesday, August 2, 2011

EARLY 5:00 p.m. START TIME

1. **CALL TO ORDER AND ROLL CALL**

Mayor Osborne called the regular August 2, 2011 City Council meeting to order at 5:05 p.m. in Council Chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, Karakehian and Morzel.

2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE – 5:06 p.m.**

1. Carolyn Bninski spoke to the Move to Amend referendum and how huge corporations buy our representatives. The people should be making decisions about our future.
2. Dan Gould, Chair of the Boulder County Democratic Party, spoke in support of the Move to Amend referendum with the Madison wording and urged Council support.
3. Judy Lubow a member of the Boulder County Democratic Party spoke in support of the Madison wording for the Move to Amend referendum. She indicated there was a growing support for this referendum from many local organizations. Please listen to the voices in the community.
4. Alex Budd representing Boulder Earth Guardians and a member of the Boulder Coalition for Democracy spoke in support of the Move to Amend referendum.
5. Gina Hardin, Chair of Colorado Common Cause, a non-profit organization spoke in support of voters having the option to support the Move to Amend referendum and shared the belief that corporate constitutional rights were growing and deserved attention.
6. Kristen Marshall, member of Boulder Move to Amend, urged Council to place the referendum on the ballot.
7. Elena Nunez with Colorado Common Cause noted Boulder should be a leader on this issue given its Campaign Finance Reform initiative and urged Council to place this item on the ballot and utilize the Madison language.
8. Laura Spicer supported the Madison language for the Move to Amend referendum and provided some history on how corporations' power in democracy grew. People in Boulder want to vote on this issue.
9. Ruth Blackmore on behalf of PLAN Boulder County urged support of the placing the Move to Amend referendum on the ballot to reverse the Citizens United decision.
10. Scott Silber pooling time with Gabriele Fortuna and Anita Beth Li also spoke in support of the Madison language and place the Move to Amend referendum on the ballot.

City Manager Response:

None.

City Attorney Response:

None.

City Council Response:

Deputy Mayor Wilson commented that a public hearing on the Move to Amend item would occur on August 16.

3. **CONSENT AGENDA: - 5:35 p.m.**

- A. **CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE JUNE 7, 2011 STUDY SESSION ON THE FIRE DEPARTMENT OPERATION AND MANAGEMENT ASSESSMENT REPORT.**
- B. **CONSIDERATION OF A RESOLUTION ACCEPTING THE CITY OF BOULDER'S 2010 COMPREHENSIVE ANNUAL FINANCIAL REPORT AND INDEPENDENT AUDITOR'S REPORTS.**
- C. **SECOND READING AND CONSIDERATION OF EMERGENCY ORDINANCE NO. 7797 ADOPTING SUPPLEMENT NO. 109 WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7786, 7787, 7788, 7793, AND INCLUDES OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS TO THE BOULDER REVISED CODE, 1981.**
- D. **CONSIDERATION OF THE FOLLOWING ITEMS RELATED TO A DEVELOPMENT PROJECT ENTITLED HARPER HOLLOW LOCATED ON A BOULDER COUNTY PROPERTY IDENTIFIED AS 3015 KALMIA AVENUE:**
 - 1. **A RESOLUTION FINDING THE ANNEXATION PETITION IN COMPLIANCE WITH STATE STATUTES AND ESTABLISHING SEPTEMBER 6, 2011 AS THE DATE FOR A PUBLIC HEARING; AND**
 - 2. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE TO ANNEX AND ZONE THE SUBJECT PROPERTY TO FLEX DISTRICT ZONING PER SUBSECTION 9-5-2(C)(7), B.R.C. 1981.**

APPLICANT/PROPERTY OWNER: HARPER HOLLOW, LLC

- E. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 1, 2011, THE QUESTION OF RECOMMENDING AN AMENDMENT TO THE UNITED STATES CONSTITUTION.**

Council Member Cowles moved, seconded by Morzel to approve Consent agenda items 3A through 3E with item 3E amended to move forward attachment A only. The motion carried unanimously 9:0 with Council Member Morzel recused on item 3A as she was not present at the study session.

4. **POTENTIAL CALL- UP CHECK IN: - 5:35 p.m.**

There were no potential call-ups on the agenda.

ORDER OF BUSINESS

5. PUBLIC HEARINGS: - 5:35 p.m.

A. **SECOND READING AND CONSIDERATION OF ORDINANCE No. 7798 SUBMITTING TO THE VOTERS AT THE ELECTION ON NOVEMBER 1, 2011, A BALLOT ISSUE THAT WOULD: WITHOUT RAISING TAXES, INCREASE THE DEBT OF THE CITY UP TO 49 MILLION DOLLARS FOR CAPITAL IMPROVEMENT BONDS TO FUND CAPITAL IMPROVEMENT PROJECTS THAT MAY INCLUDE, WITHOUT LIMITATION:**

- **REPAIRING AND MAINTAINING STREETS AND PATHWAYS;**
- **REPAIRING AND REPLACING STRUCTURALLY DEFICIENT BRIDGES AND STRUCTURES;**
- **COMPLETING MISSING LINKS IN THE TRANSPORTATION SYSTEM;**
- **REPAIRING AND RENOVATING AGING CITY FACILITIES;**
- **REPLACING AND MODERNIZING CORE SERVICE COMPUTER SOFTWARE;**
- **MODERNIZING BASIC POLICE AND FIRE SAFETY FACILITIES AND EQUIPMENT;**
- **RENOVATING AND REPAIRING PARKS AND RECREATION FACILITIES;**
- **RENOVATING PORTIONS OF THE MAIN LIBRARY;**
- **IMPROVING CONNECTIONS AND STREETSCAPES DOWNTOWN, AND SETTING FORTH RELATED DETAILS.**

City Manager Brautigam indicated Council had received a blue handout with a revised Ordinance No. 7798 that included some specific numbers that weren't included in the packet. She then outlined specific projects that would be included under each ballot heading. She reminded Council that the stakeholder group was focused on significant deficiencies that would help avoid higher costs later, reduce operating and maintenance costs, provide ongoing efficiency and focus on new, higher priority investments. The next steps included a third reading on August 16, a November ballot item, and, if approved, the projects would be incorporated into the CIP. The stakeholder group would then reconvene in 2012 to focus on further enhancements.

Council Member Becker clarified that, if the ballot measure didn't pass, the projects could still be done, only through the regular CIP process. City Manager Brautigam confirmed that was the case.

There being no speakers the public hearing was closed at 5:45 p.m.

Council Member Ageton moved, seconded by Gray to amend Ordinance No. 7798, as outlined in the blue handout, submitting to the voters at the election on November 1, 2011, a ballot issue that would: without raising taxes, increase the debt of the city up to 49 million dollars for capital improvement bonds to fund capital improvement projects that may include, without limitation:

- repairing and maintaining streets and pathways;
- repairing and replacing structurally deficient bridges and structures;
- completing missing links in the transportation system;

- repairing and renovating aging city facilities;
- replacing and modernizing core service computer software;
- modernizing basic police and fire safety facilities and equipment;
- renovating and repairing parks and recreation facilities;
- renovating portions of the main library;
- improving connections and streetscapes downtown,

and setting forth related details. The motion carried unanimously 9:0. 5:47 p.m.

B. SECOND READING AND CONSIDERATION OF FOUR CHARTER AMENDMENT ORDINANCES SUBMITTING TO THE ELECTORS OF THE CITY OF BOULDER, COLORADO, AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 1, 2011, THE QUESTIONS OF: - 5:47 p.m.

- 1. ORDINANCE NO. 7799 PROVIDING CLEANUP PROVISIONS TO REFLECT THE CURRENT ORGANIZATIONAL STRUCTURE;**
- 2. ORDINANCE NO. 7800 WHICH PROVIDES PENALTIES FOR CHARTER VIOLATIONS TO BE CONSISTENT WITH PENALTIES FOR CODE VIOLATIONS;**
- 3. ORDINANCE NO. 7801 CHANGING ELECTION LANGUAGE TO BE CONSISTENT WITH CURRENT ELECTION PRACTICES;**
- 4. ORDINANCE NO. 7802 REVISING THE CHARTER PROCEDURE FOR INITIATIVES TO BE CONSISTENT WITH CURRENT ELECTION CALENDARS AND LIMITING THE TIME ALLOWED FOR PETITIONS TO BE CIRCULATED FOR SIGNATURES TO 180 DAYS.**

Council Member Appelbaum raised concern that the ballot language was too long. City Clerk Lewis responded that more was included in this ballot title as it changed the process that allowed direct legislation. City Attorney Tom Carr offered that council could pass this on second reading with a third reading returning on Consent on August 16 that would allow the City Attorney's Office to draft a shortened version.

There being no speakers the public hearing was closed at 5:58 p.m.

Council Member Cowles asked how ballot measures are given numbers on the ballot and suggested Council should take its time and try to exercise some discretion in how the City's ballot items are numbered. City Clerk Lewis indicated that the ballot order is required under state law as Candidates followed by Tabor Issues then by ballot Questions.

Council Member Morzel moved, seconded by Appelbaum to adopt Four Charter amendment ordinances submitting to the electors of the City of Boulder, Colorado, at the general municipal coordinated election to be held on Tuesday, November 1, 2011, the questions of:

1. Ordinance No. 7799 providing cleanup provisions to reflect the current organizational structure;
2. Ordinance No. 7800 which provides penalties for charter violations to be consistent with penalties for code violations;
3. Ordinance No. 7801 changing election language to be consistent with

current election practices;

4. Ordinance No. 7802 revising the Charter procedure for initiatives to be consistent with current election calendars and limiting the time allowed for petitions to be circulated for signatures to 180 days.

The motion carried unanimously 9:0 with Ordinance No. 7802 returning for a third reading on August 16. 5:55 p.m.

C. MATTERS RELATED TO THE CREATION OF A MUNICIPAL LIGHT AND POWER UTILITY: - 6:00 p.m.

1. **SECOND READING, AND CONSIDERATION OF ORDINANCE NO. 7804 SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 1, 2011, THE QUESTION OF AMENDING THE CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO CREATE A LOCAL UTILITY AND THE PRINCIPLES FOR THE OPERATION OF SAID UTILITY FOR THE DISTRIBUTION OF ELECTRICITY; AUTHORIZING THE CITY COUNCIL TO ISSUE BONDS FOR THE ACQUISITION OF THE DISTRIBUTION SYSTEM AND OTHER ASSETS NECESSARY FOR THE OPERATION OF THE LOCAL UTILITY; AND SETTING FORTH RELATED DETAILS; AND**
2. **SECOND READING, AND CONSIDERATION ORDINANCE NO. 7805 SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 1, 2011, THE QUESTION OF AUTHORIZING THE CITY COUNCIL TO EXTEND AND INCREASE THE CLIMATE ACTION PLAN TAX THAT WAS APPROVED BY THE VOTERS IN NOVEMBER 2006 AND APPROVED BY THE CITY COUNCIL IN CHAPTER 3-12, B.R.C. 1981, THROUGH MARCH 31, 2018 AS AN EXCISE TAX COMPUTED UPON THE BASIS OF THE AMOUNT OF ELECTRICITY USED BY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL CUSTOMERS FOR THE PURPOSES OF FUNDING THE CLIMATE ACTION PLAN TO REDUCE AND MITIGATE THE HEALTH AND SAFETY IMPACTS OF GREENHOUSE GAS EMISSIONS AND ADDRESS GLOBAL WARMING; FUNDING PRELIMINARY COSTS ASSOCIATED WITH THE CREATION OF A MUNICIPAL UTILITY; GIVING APPROVAL FOR THE COLLECTION, RETENTION, AND EXPENDITURE OF THE FULL TAX PROCEEDS AND ANY RELATED EARNINGS NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION; SETTING FORTH THE BALLOT TITLE; AND SETTING FORTH RELATED DETAILS, AND**
3. **INTRODUCTION, FIRST READING AND CONSIDERATION OF PUBLISHING BY TITLE ONLY:
AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY NOVEMBER 1, 2011, THE QUESTION OF AUTHORIZING THE CITY COUNCIL TO EXTEND AND INCREASE THE UTILITY**

OCCUPATION TAX THAT WAS APPROVED BY THE VOTERS IN NOVEMBER 2010 AND APPROVED BY THE CITY COUNCIL IN CHAPTER 3-13, B.R.C. 1981, ON PUBLIC UTILITY COMPANIES THAT DELIVER ENERGY TO CUSTOMERS IN THE FORM OF ELECTRICITY AND GAS AT THE RATE \$1.9 MILLION DOLLARS, BEGINNING JANUARY 1, 2012 AND EXPIRING THE EARLIER OF DECEMBER 31, 2017, WHEN THE CITY DECIDES NOT TO CREATE A MUNICIPAL UTILITY, OR WHEN IT COMMENCES DELIVERY OF MUNICIPAL ELECTRIC UTILITY SERVICES, FOR THE GENERAL COSTS OF GOVERNMENT AND TO FUND PRELIMINARY COSTS ASSOCIATED WITH CREATING A MUNICIPAL ELECTRIC UTILITY AND ACQUIRING AN EXISTING ELECTRIC DISTRIBUTION SYSTEM; GIVING APPROVAL FOR THE COLLECTION, RETENTION, AND EXPENDITURE OF THE FULL TAX PROCEEDS AND ANY RELATED EARNINGS NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION; SETTING FORTH THE BALLOT TITLE; AND SETTING FORTH RELATED DETAILS.

City Manager Jane Brautigam provided the introduction noting the purpose of the item was to present the community survey results, introduce the occupation tax alternative ordinance and hold second reading of Ordinances No. 7804 and 7805. Final reading of these items would occur on August 16. She indicated additional cost model runs were included in the packet and additional scenarios are being run for the August 16 meeting. The comparison of different utility options was also included in Attachment D of the agenda packet material.

City Attorney Tom Carr reviewed several of the issues from the July 26th study session. He presented a buff colored handout that was intended to clarify the questions from Council.

Deputy City Attorney Gehr spoke to the Payment in Lieu of Taxes (PILOT) issue noting the limitations included a cap on franchise fee payments to 4% of revenue and limitations based on the amount of property, sales or use tax equivalents. Provisions are also included addressing other governmental entities such as mandatory payments to the Boulder Valley School District and authorizes payments to other Governmental entities.

City Attorney Tom Carr then spoke to the need for rate parity for two purposes, ratemaking guidelines and off-ramps. A question remained as to whether the standard should be fixed or flexible. Options to address this language were included in the buff colored handout. Mr. Carr then reviewed the Utility Board standards noting it was drafted with a 9 member board with a majority being appointed by the City Council. Staff strongly recommended that the utility board not be created until after the bonds were issued.

Deputy City Attorney Gehr then spoke to transition funding and how the Climate Action Plan tax and Occupation tax differ.

Dr. Tom Miller, President of the National Research Center, presented the Boulder Energy Survey results. 400 registered voters were selected at random. It was a 17 minute survey with a 32% response rate.

Council Member Becker raised concern about the number of participants. Dr. Miller indicated it could be a representative sample. The margin of error was +/- 5 percentage points. Council Member Cowles echoed some of the same concerns about the survey respondents.

Dr. Miller indicated that the City scored stronger in areas such as renewable energy sources and Xcel scored higher related to reliability and rates. Residents valued reliability most, followed by customer service, control, impact on the local economy, source and cost last. A majority of respondents either strongly or somewhat supported moving forward with a 20-year franchise option with Xcel. This did not include individuals who answered "don't know." When a wind energy option was tied into a franchise with Xcel, the support percentage went up to 78%. There was a much higher percent of individuals who strongly supported the municipal utility option with an equally high margin of those who responded "don't know." The majority of support for a municipal utility came from students, renters and lower income residents. When looking at likely voters, defined as those who voted in 2009 and 2010, they were older, wealthier and had followed the discussion more closely – they had less support for municipalization than those who were less likely to vote. Support seemed to increase when it was mentioned that guidelines would be put in place to keep costs within 10% of Xcel's rates. When asked about the CAP tax or Utility Occupation tax, 77% of respondents supported that option. 90% of individuals were more likely to support municipalization when presented statistics on the number of municipally owned utilities in the state.

They key takeaways were:

- Base support for staying with Xcel over 50%
- Base support for municipalization over 70%
- Reliability most important; renewables matter
- Approve CAP tax or UO Tax to fund
- Almost half would pay 20% or more on bill
- Compelled by off ramp option, cap link to Xcel cost and knowledge that other local governments run utilities
- Greatest supporters were younger, renters, females, less time in Boulder, income less than \$50,000.

Council Member Cowles raised concern about the ability to protect individual consumer data from Colorado Open Records Act (CORA) requests. Jonathan Koehn responded that this was the one authority that was granted with the creation of a local municipal utility.

Deputy Mayor Wilson raised concern about whether bonding limits should be included on the ballot item.

City Attorney Tom Carr clarified that the effective limit required projecting what costs and net revenue would be to calculate maximum debt payment. This was subject to many variables.

Council Member Ageton raised concern about the clarity of the ballot language on page 20 of the buff colored handout.

Council Member Karakehian suggested the language on page 8 of the buff handout stated the utility “may” create a fund to provide assistance to low-income customers. City Attorney Carr indicated staff placed the least restrictive language in the Charter.

Council Member Gray spoke to language on page 11 of the agenda memo about whether customers could opt out of the city’s utility services and remain customers of Xcel. Deputy City Attorney Gehr clarified that residents and/or businesses could only opt out if it could be established that the utility cannot provide reliable service.

Council Member Ageton clarified that the annual increase in the tax (in the context of deciding NOT to create a municipal utility) that the Climate Action Plan (CAP) increase would go away if an off ramp were chosen. The original CAP tax rates would be used to continue the existing CAP tax programs.

The public hearing was opened at 6:10 p.m.:

1. Chris Hoffman thanked council and staff for their hard work and supported municipalization.
2. Kenneth Regelson, city resident, spoke in support of municipalization, it was the right thing to do.
3. Buzz Burrell commented that this measure should go on the ballot. He hoped the ballot language was clear and consistent with the magnitude of the decision.
4. Jim Hartman, local business owner, supported municipalization and spoke to the long term benefits.
5. David Miller, Boulder Energy Coalition, thanked the city and local activists for the hard work and suggested getting cost bands out.
6. Steve Pomerance spoke in opposition to allowing the city manager to appoint the utility board. He indicated his citizens group preferred the occupation tax.
7. Susan Graf, CEO of the Boulder Chamber, expressed that the item was not fully ready to go on the ballot and did not include any other options. She supported city manager appointments to the utility board.
8. Yaza Fattaleh, CU student, spoke in favor of Ken Wilson’s proposal to provide the voters with additional options.
9. Rob Smoke expressed that incentives for decreasing consumption was a key concern for him. He also questioned the validity of the us vs.

- them paradigm in achieving goals. He supported loans to people who wanted to go off the grid.
10. Xiuhtezcatl Martinez with the Earth Guardians spoke in support of municipalization.
 11. Itzcuahtli Roske-Martinez did a rap for Council in support of municipalization.
 12. Kelly Bartell supported municipalization and Boulder being a leader in this field.
 13. Alex Karmarchuck with Ion Solar expressed that he did not think it was in the best interest of the City to pursue municipalization as there was not enough information to make an informed decision in such a short period of time.
 14. Haley Gray thanked Council for engaging the public and was supportive of municipalization.
 15. Joseph Cuehouri agreed that young people were in favor of municipalization to help become a greener economy and valued the opportunity to break away from fossil fuels.
 16. Karey Christ-Janer spoke in support of pursuing a hybrid model and raised concern that there wouldn't be much time for residents to get a good fiscal picture.
 17. Michael Gray with RenewablesYES.org suggested Boulder could move quickly to develop its own wind turbine and raised concern that he had not heard anything about decommissioning the Valmont Coal Plant.
 18. Steven Haymes spoke in support of Ken Wilson's proposal and providing options for voters.
 19. John Pavelich spoke to the complexity of the issue and the residents' need for time to process all of the information out there.
 20. Adam Estroff supported Council Member Wilson's proposed amendments to the ballot language. He felt the costs for acquiring municipalization were rising out of control.
 21. Elizabeth Allen expressed that the time is now to place municipalization on the ballot.
 22. Ted Rose spoke in support of moving municipalization forward.
 23. Mike Sickinger, Centennial resident, indicated he put a 7kw grid on his home and despite all the warnings from Xcel it worked well for him. He supported moving municipalization forward.
 24. Jim Morris also spoke in favor of municipalization quoting various health costs related to coal use.
 25. Sophia Jofee a 10-year old Foothills Elementary School student urged Council to stop using coal and move forward renewable energy sources.
 26. Ruth Blackmore representing PLAN Boulder supported the staff recommendation in the agenda packet.
 27. Micah Parkin with 350.org supported municipalization. Please include the word renewable in the ballot title.
 28. Leslie Glustrom reiterated that even the ballot item didn't ensure the municipal utility, there were still a good couple years and nothing was final until the bonds were issued.

29. Steve Morgan supported a joint effort with Xcel as an alternative approach and thought additional opportunities for negotiation might exist.
30. Sam Weaver undertook a modeling effort that would show renewables and provided those statistics to Council. He urged Council that this was doable. Renewablesyes.org has his model and presentation.
31. Christopher Smith supported moving municipalization forward to the ballot.
32. Sara Sims spoke to the importance of educating the community and helping thwart misconceptions and misinformation.
33. Julie Zahniser echoed Sam Weavers' comments and urged council to view the presentation and narrative. She would love to see Boulder become the 30th municipal utility in the State of Colorado. She volunteered to help educate the community.
34. Dan Powers with Western Disposal spoke to Western's technology, composting and proactive approaches including participation in the windsource program. He urged Council to identify specific triggers for the off ramps.
35. Lynn Segal spoke in support of municipalization.

There being no further speakers the public hearing was closed at 8:36 p.m.

Deputy Mayor Wilson indicated the Valmont Coal Plant would be decommissioned in 2017 as promoted by Xcel Energy and the PUC. He also commented regarding solar gardens that the process was moving forward aggressively.

Council Member Gray commented that she had asked staff to review the slides from Bob Belamare to determine where the discrepancy was. She also commented that the City of Boulder had no involvement in the CU co-generation plant being taken off line. She also clarified that municipalizing did not mean the city would cease demand side programs.

Council Member Morzel agreed with Council Member Grays request to see Bob Belamare's numbers.

City Attorney Tom Carr spoke to the request to put the words renewable energy in the ballot title and indicated the buff handout did include the words renewable energy in the ballot title.

Deputy City Attorney David Gehr then walked Council Members through the changes reflected in the buff colored handout provided to Council.

Council Member Cowles raised concern that the staff language didn't include the intent that with rates, Boulder hoped to achieve environmental benefits. Tom Carr indicated the environmental benefits were included on page 2 in the guiding principles section.

Council then discussed rates and whether utilizing the “comparable to” Xcel rates or “not to exceed” language would be more meaningful. Some felt the language provided future flexibility while others expressed that the “comparable” language would require parameters. The “not to exceed” language would be more finite

Amendment 1

Council Member Appelbaum moved, seconded by Morzel to amend the Ballot title in Ordinance No. 7804 and to make conforming changes to Charter Section 178 as listed in the following 4 amendments in the buff colored handout. The motion carried 9:0. 11:40 p.m.

Shall the City of Boulder have the authority to establish, acquire, erect, maintain, and operate, by any lawful means, a municipal light and power utility with programs and improvements that include without limitation generation plants, renewable energy, energy conservation, and distribution systems, with all necessary powers appurtenant thereto if the city council determines that it can acquire the electrical distribution system in Boulder and charge rates that do not exceed those rates charged by Xcel Energy at the time of acquisition and that such rates will produce revenues sufficient to pay for operating expenses and debt payments, plus an amount equal to twenty-five percent (25%) of the debt payments, and with reliability comparable to Xcel Energy and a plan for reduced green house gas emissions and other pollutants and increased renewable energy; and

Shall the City amend its charter by the addition of a new Article XIII, “Light and Power Utility,” as described in Ordinance No. 7804 that provides for utility service standards, the creation of an electric utilities department and electric utilities board, and the general powers and limitations of the utility; and

Shall the City, acting through the utility, issue enterprise revenue bonds payable solely from the net revenues of the utility, to finance the costs of acquiring from Xcel Energy and any affiliate thereof, and constructing, relocating, installing, improving, completing or expanding the equipment, facilities and other assets comprising an existing electric distribution system within or outside the City’s boundaries, and paying all necessary or incidental costs related thereto, and shall the City have the authority to adopt all means necessary or appropriate to carry out the requirements, purpose and intent of this measure?

For the measure _____ Against the measure _____

Amendment 2

Council Member Appelbaum moved, seconded by Cowles to amend Ordinance No. 7804 with an amendment to No. 1 (white page) in the ballot language and Charter to read as follows. The motion carried 9:0.

The council will fix rates for which electric service will be furnished for all purposes, and rates shall be as low as good service will permit, consistent with the guiding principals set forth in section 178(c)(1)-(6).

Amendment 3

Council Member Cowles moved, seconded by Morzel to amend Ordinance No. 7804 as follows in amendments 3 and 4. The motion carried 9:0 at 10:17 p.m.

Terms of Office: The term of each member shall be five years; provided, however, that in appointing the original members of the board, the city council and city manager shall continue the terms of the current members or shall stagger the initial terms so that at least one board member's term expires in each year.

Council Member Appelbaum moved, seconded by Ageton to suspend the rules and continue the meeting at 10:30 p.m. The motion carried 8:1; Becker opposed.

Amendment 4

Amend Section 185(c),(d) and (f) as follows:

(c) Board Appointments: The city council shall appoint five members of the board and the city manager shall appoint four members of the board. The city council and the city manager will alternate in appointing members

(e) Removal: The city council original appointing authority may remove any board member for cause.

(f) Vacancies: In the event that a board member's term ends by resignation, vacation of seat or removal from service on the board, the board member shall be replaced by the city council original appointing authority.

Council Member Gray moved, seconded by Cowles to require at least 6 registered voters. The motion failed 4:5; Ageton, Appelbaum, Becker and Karakehian opposed. 10:30 p.m.

Council Member Ageton moved, seconded by Appelbaum to suspend the rules and continue the meeting at 11:00 p.m. The motion carried 8:1; Becker opposed.

Vote was taken on the main motion to amend Ordinance No. 7804 as approved by council The motion carried 9:0. 11:40 p.m.

Council Member Gray moved, seconded by Appelbaum to introduce and order published by title only Ordinance No. 7808 as represented in the buff colored handout on page 22 regarding the Utility Occupation Tax as follows. The motion carried 9:0 at 12:05 p.m.

Council Member Appelbaum offered a friendly amendment, seconded by Morzel to replace the ballot language with the handout for language on page 23 of the buff colored handout:

Friendly Amendment to Ordinance 7808

Replace the Ballot Title as follows:


SHALL CITY OF BOULDER TAXES BE INCREASED \$1,900,000 ANNUALLY (IN THE FIRST YEAR) THROUGH AN INCREASE OF UP TO THAT AMOUNT IN THE CURRENT UTILITY OCCUPATION TAX WITH THE ANNUAL INCREASE BEING FOR THE PURPOSE OF FUNDING THE COSTS OF FURTHER EXPLORATION OF AND PLANNING FOR BOTH THE CREATION OF A MUNICIPAL ELECTRIC UTILITY AND ACQUIRING AN EXISTING ELECTRIC DISTRIBUTION SYSTEM, AND SHALL THE CITY'S UTILITY OCCUPATION TAX BE EXTENDED FROM ITS CURRENT EXPIRATION DATE OF DECEMBER 31, 2015 AND EXPIRE ON THE EARLIER OF: (1) DECEMBER 31, 2017, (2) WHEN THE CITY DECIDES NOT TO CREATE A MUNICIPAL UTILITY, OR (3) WHEN IT COMMENCES DELIVERY OF MUNICIPAL ELECTRIC UTILITY SERVICES, WITH THE EXTENSION OF THE EXISTING TAX BEING USED TO [CONTINUE TO] SUPPORT LOCAL GOVERNMENT SERVICES, AND SHALL THE REVENUE FROM SUCH TAX INCREASE AND EXTENSION AND ALL EARNINGS THEREON (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER APPROVED REVENUE CHANGE, AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

The motion carried 9:0 12:05 a.m.


6. **MATTERS FROM THE CITY MANAGER:** - None.
7. **MATTERS FROM THE CITY ATTORNEY:** - None.
8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:** - None.
9. **PUBLIC COMMENT ON MATTERS:** - None.
10. **FINAL DECISIONS ON MATTERS:** - None.
11. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 12:10 A.M.

ATTEST:


Alisa D. Lewis,
City Clerk

APPROVED BY:


Susan Osborne,
Mayor